

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

DARRELL JONES,

Plaintiff,

v.

CIVIL ACTION NO. 5:21-cv-00634

KILOLO KIJAKAZI,
Acting Commissioner of the
Social Security Administration,

Respondent.

ORDER

Pending are Plaintiff's request for judgment on the pleadings, filed on June 6, 2022 [Doc. 13], and Defendant's request to affirm his decision, filed on August 4, 2022 [Doc. 16]. This action was previously referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Eifert filed her PF&R on September 22, 2022. [Doc. 18]. Magistrate Judge Eifert recommended that the Court grant Plaintiff's request for judgment on the pleadings to the extent that he requests remand of the Commissioner's decision, deny the Commissioner's request to affirm the decision, reverse the final decision of the Commissioner, remand this matter pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with the PF&R, and dismiss this action from the Court's docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the

report or specified proposed findings or recommendations *to which objection is made.*” (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on October 6, 2022. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [Doc. 18], **GRANTS** Plaintiff’s request for judgment on the pleadings to the extent that he requests remand of the Commissioner’s decision [Doc. 13], **DENIES** the Commissioner’s request to affirm the decision [Doc. 16], **REVERSES** the final decision of the Commissioner, **REMANDS** this matter pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with the PF&R, and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: November 28, 2022



A handwritten signature in black ink that reads "Frank W. Volk".
Frank W. Volk
United States District Judge